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# **Judiciary Committee**

**Wednesday, February 22, 2006  
10:15 A.M. – 12:00 P.M.  
Morris Hall  
(17 HOB)**

## **Committee Action Packet**

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
David Simmons (Chair)	X		
Kevin Ambler	X		
Dennis Baxley	X		
Frederick Brummer	X		
Anitere Flores	X		
Dan Gelber			X
Michael Grant	X		
Jeffrey Kottkamp	X		
Sheri McInvale	X		
Joe Pickens	X		
Juan-Carlos Planas	X		
Curtis Richardson	X		
Dennis Ross	X		
John Seiler	X		
<b>Totals:</b>	<b>13</b>	<b>0</b>	<b>1</b>

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HJR 33 : Homestead Property Assessments**

☒ *Discussed*

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HJR 39 : Limitations on Assessments of Residential and Commercial Property**

☒ *Not Considered*

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

Amdt. 1

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES  
Amendment No. (for drafter's use only)

Bill No. 39

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER

☒ Not considered

Council/Committee hearing bill:

Representative(s) Farkas offered the following:

**Amendment (with ballot statement and title amendments)**

Remove line(s) 27 through 57 and insert:

(c) The assessment of real property, other than property assessed under subsections (a) and (d), shall change only as provided herein. All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES  
Amendment No. (for drafter's use only)

(2) No assessment shall exceed just value.

(3) In the event property no longer qualifies for assessment under subsection (a) or (d), that property shall be assessed at just value as of January 1 of the year following the date the property ceased to qualify for assessment under those subsections. After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the property homestead shall be assessed as provided herein.

~~(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.~~

~~(4)(5)~~ Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

===== B A L L O T S T A T E M E N T A M E N D M E N T =====

Remove line(s) 93 and insert:  
expand to additional types of property the limitations

===== T I T L E A M E N D M E N T =====

Remove line(s) 4 and insert:  
limitations on assessments of

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**HB 129 : Lawful Ownership, Possession, and Use of Firearms and Other Weapons**

☒ *Temporarily Deferred*

### HB 129 Amendments

#### Amendment 1

☒ Temporarily Deferred

#### Amendment 1A

☒ Failed to Adopt

### Appearances:

HB 129 and Amendment 1

Bill Herrle (Lobbyist) - Opponent

Florida Retail Association

227 South Adams Street

Tallahassee FL 32301

Phone: 850-222-4082

HB 129 and Amendment 1

Mark Wilson (Lobbyist) - Opponent

Florida Chamber of Commerce

136 South Bronough St.

Tallahassee FL 32301

Phone: 850-521-1209

HB 129 and Amendment 1

Marion Hammer (Lobbyist) - Proponent

NRA & Unified Sportsmen of Florida

PO Box 1387

Tallahassee FL 32302

Phone: 850-222-9518

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amot. 1

Amendment No. (for drafter's use only)

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)

ADOPTED AS AMENDED — (Y/N)

ADOPTED W/O OBJECTION — (Y/N)

FAILED TO ADOPT — (Y/N)

WITHDRAWN — (Y/N)

OTHER —

Temporarily Deferred

Council/Committee hearing bill: Judiciary

Representatives Simmons and Baxley offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.--

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

21 (a) This section does not authorize carrying a concealed  
22 weapon without a permit, as prohibited by ss. 790.01 and 790.02.

23 (b) The protections of this section do not apply to the  
24 following:

25 1. A person who has been adjudged mentally incompetent,  
26 who is addicted to the use of narcotics or any similar drug, or  
27 who is a habitual or chronic alcoholic, or a person using  
28 weapons or firearms in violation of ss. 790.07-790.12, 790.14-  
29 790.19, 790.22-790.24.+

30 2. Vagrants and other undesirable persons as defined in s.  
31 856.02.+

32 3. A person in or about a place of nuisance as defined in  
33 s. 823.05, unless such person is there for law enforcement or  
34 some other lawful purpose.

35 (3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06  
36 do not apply in the following instances, and, despite such  
37 sections, it is lawful for the following persons to own,  
38 possess, and lawfully use firearms and other weapons,  
39 ammunition, and supplies for lawful purposes:

40 (a) Members of the Militia, National Guard, Florida State  
41 Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard,  
42 organized reserves, and other armed forces of the state and of  
43 the United States, when on duty, when training or preparing  
44 themselves for military duty, or while subject to recall or  
45 mobilization.+

46 (b) Citizens of this state subject to duty in the Armed  
47 Forces under s. 2, Art. X of the State Constitution, under  
48 chapters 250 and 251, and under federal laws, when on duty or  
49 when training or preparing themselves for military duty.+

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

50 (c) Persons carrying out or training for emergency  
51 management duties under chapter 252.+

52 (d) Sheriffs, marshals, prison or jail wardens, police  
53 officers, Florida highway patrol officers, game wardens, revenue  
54 officers, forest officials, special officers appointed under the  
55 provisions of chapter 354, and other peace and law enforcement  
56 officers and their deputies and assistants and full-time paid  
57 peace officers of other states and of the Federal Government who  
58 are carrying out official duties while in this state.+

59 (e) Officers or employees of the state or United States  
60 duly authorized to carry a concealed weapon.+

61 (f) Guards or messengers of common carriers, express  
62 companies, armored car carriers, mail carriers, banks, and other  
63 financial institutions, while actually employed in and about the  
64 shipment, transportation, or delivery of any money, treasure,  
65 bullion, bonds, or other thing of value within this state.+

66 (g) Regularly enrolled members of any organization duly  
67 authorized to purchase or receive weapons from the United States  
68 or from this state, or regularly enrolled members of clubs  
69 organized for target, skeet, or trap shooting, while at or going  
70 to or from shooting practice; or regularly enrolled members of  
71 clubs organized for modern or antique firearms collecting, while  
72 such members are at or going to or from their collectors' gun  
73 shows, conventions, or exhibits.+

74 (h) A person engaged in fishing, camping, or lawful  
75 hunting or going to or returning from a fishing, camping, or  
76 lawful hunting expedition.+

77 (i) A person engaged in the business of manufacturing,  
78 repairing, or dealing in firearms, or the agent or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

representative of any such person while engaged in the lawful course of such business.†

(j) A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place.†

(k) A person firing weapons in a safe and secure indoor range for testing and target practice.†

(l) A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession.†

(m) A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business.†

(n) A person possessing arms at his or her home or place of business.†

(o) Investigators employed by the several public defenders of the state, while actually carrying out official duties, provided such investigators:

1. Are employed full time;
2. Meet the official training standards for firearms established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(5) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the employing public defender and filed with the clerk of the circuit court in the county in which the employing public defender resides.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

(p) Investigators employed by the capital collateral representative, while actually carrying out official duties, provided such investigators:

1. Are employed full time;
2. Meet the official training standards for firearms as established by the Criminal Justice Standards and Training Commission as provided in s. 943.12(1) and the requirements of ss. 493.6108(1)(a) and 943.13(1)-(4); and
3. Are individually designated by an affidavit of consent signed by the capital collateral representative and filed with the clerk of the circuit court in the county in which the investigator is headquartered.

(4) CONSTRUCTION.--This act shall be liberally construed to carry out the declaration of policy herein and in favor of the constitutional right to keep and bear arms for lawful purposes. This act is supplemental and additional to existing rights to bear arms now guaranteed by law and decisions of the courts of Florida, and nothing herein shall impair or diminish any of such rights. This act shall supersede any law, ordinance, or regulation in conflict herewith.

(5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding subsection (2), it is lawful and is not a violation of s. 790.01 for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. Nothing herein contained prohibits the carrying of a legal firearm other than a handgun anywhere in a private conveyance when such firearm is being carried for a lawful use. Nothing herein

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

138 contained shall be construed to authorize the carrying of a  
139 concealed firearm or other weapon on the person. This subsection  
140 shall be liberally construed in favor of the lawful use,  
141 ownership, and possession of firearms and other weapons,  
142 including lawful self-defense as provided in s. 776.012.

143 (6) STORAGE AND TRANSPORT OF FIREARMS LOCKED INSIDE OR  
144 LOCKED TO A MOTOR VEHICLE IN A PARKING AREA; PENALTY; IMMUNITY  
145 FROM LIABILITY.--

146 (a) As used in this subsection, the term:

147 1. "motor vehicle" means any automobile, truck, minivan,  
148 sports utility vehicle, motorcycle, motor scooter, or any other  
149 similar vehicle required to be registered under Florida law.

150 2. "employee" means any person who works for salary,  
151 wages, or other remuneration; is an independent contractor; or  
152 is a volunteer, intern, or other similar individual for an  
153 employer.

154 3. "employer" means any business that is a sole  
155 proprietorship, partnership, corporation, limited liability  
156 company, professional association, cooperative, joint venture,  
157 trust, firm, institution, or association, with employees.

158 4. "invitee" means any business invitee, including a  
159 customer or visitor lawfully on the premises.

160 (b) Except as provided in paragraph (e), no employer, or  
161 landlord of an employer, shall establish, maintain, or enforce  
162 any policy or rule that prohibits or has the effect of  
163 prohibiting an employee or invitee in lawful possession of a  
164 firearm from parking a motor vehicle on any property used for  
165 that purpose when the employee or invitee is lawfully in such  
166 area and the firearm is actually locked inside or locked to the  
167 motor vehicle, unless, at its own election, the employer, or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

landlord of the employer, provides the employee or invitee with the opportunity to:

1. check, store, or secure the firearm of the employee or invitee subject to reasonable conditions; or

2. park in an onsite area set aside by the employer, or landlord of the employer, for parking motor vehicles with a firearm locked inside or locked to the motor vehicle. In the event the employer, or landlord of the employer, elects to provide such onsite area, it shall be as convenient as other employee or invitee parking and shall not be marked or posted as a special parking area for such purposes; or

3. notify the employer, or landlord of the employer, or their designee, that the employee or invitee intends, from time to time, to be in lawful possession of a firearm locked inside or locked to a motor vehicle.

(c)1. No employer, or landlord of an employer, or employee imposing or implementing a policy under paragraph (b), shall be liable in any civil or other action for any harm that arises out of, or results from, directly or indirectly, the use or threatened use of a firearm that was being transported and stored by an employee or invitee and was locked inside of or locked to a motor vehicle on any property owned or leased by an employer, or landlord of an employer, and used for parking motor vehicles. The immunity provided in this sub-paragraph extends to the vicarious liability of an employer or landlord of an employer that arises out of, or results from, directly or indirectly, the use or threatened use of a firearm that was being transported and stored by an employee or invitee and was locked inside of or locked to a motor vehicle on any property owned or leased by an employer, or landlord of an employer, and

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Amendment No. (for drafter's use only)

198 used for parking motor vehicles. The immunity provided in this  
199 sub-paragraph shall not apply to any person who uses or  
200 threatens to use a firearm or other weapon. The immunity  
201 provided in this sub-paragraph shall not apply if the harm  
202 involved was caused, in whole or in part, by the willful or  
203 criminal misconduct of the employer, or landlord of the  
204 employer, or a conscious and flagrant indifference to the safety  
205 of the person or persons harmed.

206 2. A civil fine of \$10,000, per aggrieved employee or  
207 invitee, shall be imposed for each violation of the prohibition  
208 in paragraph (b).

209 (d) It is the intent of this subsection to reinforce and  
210 protect the right of each law-abiding employee or invitee to  
211 enter and exit any property owned or leased by an employer, or  
212 landlord of an employer, and used for parking motor vehicles  
213 while the employee or invitee is lawfully transporting and  
214 storing a firearm in the motor vehicle and the firearm is locked  
215 inside or locked to the motor vehicle, to avail himself or  
216 herself of temporary or long-term parking or storage of a motor  
217 vehicle, and to prohibit any infringement of the right to lawful  
218 possession of the firearm when the firearm is being transported  
219 and stored inside or locked to a motor vehicle for a lawful  
220 purpose.

221 (e) The prohibition in paragraph (b) does not apply to:

222 1. property owned or leased by an employer, or landlord of  
223 an employer, upon which are conducted activities involving  
224 national defense, aerospace, or domestic security.

225 2. property owned or leased by an employer, or landlord of  
226 an employer, upon which a significant portion of the business  
227 conducted on such property involves the manufacture, use,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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storage, sale, or transportation of hazardous or ultra-hazardous materials regulated under state or federal law, including combustible or explosive materials.

3. a motor vehicle owned, leased, or rented by an employer, or landlord of an employer, or its agent.

4. any other property owned or leased by an employer, or landlord of an employer, where an employee or invitee is prohibited from having a firearm pursuant to any federal law or any existing state general law on the effective date of this act.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

An act relating to lawful ownership, possession, and use of firearms; amending s. 790.25, F.S., relating to lawful ownership, possession, and use of firearms and other weapons; providing definitions; prohibiting specified employers and landlords of employers in certain circumstances from establishing, maintaining, or enforcing any policy or rule that prohibits certain employees and invitees from parking a motor vehicle on property set aside for such purpose when a secured firearm is being lawfully transported and stored in the motor vehicle; providing for specified immunity from liability; providing a civil penalty; providing intent; providing exceptions; providing an effective date.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES  
Amendment No. (for drafter's use only)

Bill No. HB 129

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT ✓ (Y/N) 5/1  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary  
Representative Kottkamp offered the following:

**Amendment to Amendment #1 by Representatives Simmons and  
Baxley**

Remove lines 167-198 and insert:  
  
motor vehicle.

(c)1. No employer, or landlord of an employer, or employee  
imposing or implementing a policy under paragraph (b), shall be  
liable for any harm that arises out of, or results from, the use  
of a firearm that was being transported and stored by an  
employee or invitee and was locked inside of or locked to a  
motor vehicle on any property owned or leased by an employer, or  
landlord of an employer, and used for parking motor vehicles.  
The immunity provided in this

# COMMITTEE MEETING REPORT

Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**PCB JU 06-03 : Vested Governmental Powers**

☒ *Not Considered*

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

**PCB JU 06-04 : Land Trusts**

☒ *Not Considered*

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

2/22/2006 10:15:00AM

**Location:** Morris Hall (17 HOB)

### Summary:

#### Judiciary Committee

*Wednesday February 22, 2006 10:15 am*

HJR 33 Discussed

HJR 39 Not Considered

HB 129 Temporarily Deferred

Amendment 1 Temporarily Deferred

Amendment 1A Failed to Adopt

PCB JU 06-03 Not Considered

PCB JU 06-04 Not Considered

Committee meeting was reported out: Wednesday, February 22, 2006 12:51:42PM